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10/592,028	09/07/2006	Jeong-Min Lee	L69.12-0006	9384

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

EXAMINER

ALLEN, JEFFREY R

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3781

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11/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/592,028	Applicant(s) LEE ET AL.	
	Examiner JEFFREY ALLEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/3/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5, 7, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (KR 2003-0096163).

3. Regarding claim 5, Lee discloses a cap assembly that can be associated with a container storing a primary material, the cap assembly comprising a lid (200) fixed on a top of the container and having a falling space (203) and an inner cap body (201) extending from the falling space; and a cap main body (110) detachably coupled to the exhausting portion of the lid and having a storage tube extending downward to define a storage chamber (111) for storing a secondary material, a lower end of the storage chamber being closed by the inner cap body; and an outer cap (100) removably coupled to the cap main body; wherein the inner cap body is coupled to the falling space, wherein removal of the outer cap from the cap main body causes the cap main body to move out of the container such that the lower end of the chamber is opened as the cap main body is moved away from the lid, and wherein the inner cap body remains coupled to the falling space (Fig. 2).

4. Regarding claim 7, Lee discloses a cap assembly that can be associated with a container storing a primary material, the cap assembly comprising a lid (200) fixed on a

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top of the container and having a falling space (203) and an inner cap body (201) extending from the falling space; a cap main body (110) detachably coupled to the exhausting portion of the lid and having a storage tube (111) extending downward to define a storage chamber for storing a secondary material, a lower end of the storage chamber being closed by the inner cap body; a cap body (103) detachably coupled to the exhausting portion; a storage member that functions as a straw, the storage member being slidably inserted in the cap body to define storage chamber storing a secondary material and being closed by the inner cap body wherein a lower end of the chamber is opened when the storage member slides in a direction away from the inner cap body and the inner cap body remains coupled to the falling space (Fig. 2); and an outer cap body (100) detachably coupled to the exhausting portion, the storage member being coupled in the outer cap body; wherein removal of the outer cap body causes the storage member to slide in a direction away from the inner cap body and movement of the storage member is limited by a hooking step (104) and stopper (112).

5. Regarding claims 8 and 9, Lee discloses wherein the cap body is provided at an inner portion with a hooking step that engages with the stopper of the storage member and the storage member has a portion detachably coupled on an inner surface of the outer cap body (Fig. 1).

6. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Goncalves (U.S. Patent No. 4,386,696).

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7. Goncalves discloses a cap assembly that can be associated with a container (1) storing a primary material (Fig. 1), the cap assembly comprising a lid fixed on a top of the container and provided with an exhausting portion (2) and a plurality of exhausting pieces (12) extending from a lower portion of the exhausting portion; a cap body (4) detachably coupled to the exhausting portion and having a storage tube (7) extending downward to define a storage chamber for storing a secondary material; and an inner cap (8) detachably coupled to the lower portion of the storage tube wherein the exhausting pieces are coupled to the lid (since all the parts are connected to form one piece they are all coupled together) and extend radially inward from the lid and into the container (the exhausting pieces extend radially inward in relation to the location of the lid) and which contact the edge of the inner cap inserted in the lower end of the storage tube.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goncalves.

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10. Goncalves teaches all the claimed limitations as shown above and wherein the exhausting pieces have a bending portion. In the present embodiment Goncalves fails to teach wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube.

11. In an alternate embodiment Goncalves teaches wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube (Fig. 5).

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the embodiment of Goncalves with the exhausting pieces in the locations taught by the alternate embodiment, since it has been held that rearranging parts of an invention involves only routine skill in the art.

13. Claims 10-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Gibler et al. (U.S. Patent Application Publication No. 2003/0213709) in view of Bergamini et al. (U.S. Patent Application Publication No. 2002/0020636).

14. Regarding claim 10, Gibler discloses a cap assembly that can be associated with a container storing a primary material, the cap assembly comprising a lid (top portion of a bottle) fixed on a top of the container and provided with an exhausting portion (26) and a cutting plate (50); a cap body (32) detachably coupled to the exhausting portion; a storage member (52) being slidably inserted in the cap body (Fig. 6) and defining a storage chamber sealed by the cutting plate and the exhausting portion; and an outer cap body (14) detachably coupled to the cap body and provided with an inner coupling

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portion (28) that is screw-coupled to an inner surface of the storage member (the walls of the storage member are inner because they are within the exhausting portion), wherein movement of the outer cap body away from the lid causes cutting of the cutting plate and thereby opens the storage chamber to the container; and a hooking step (80) and a stopper assembly (84) arranged to limit movement of the storage member in a direction away from the container (par. 26).

15. Gibler fails to teach that the storage member functions as a straw.

16. Bergamini teaches that it is known in the art to manufacture a cap assembly wherein the storage member functions as a straw (72).

17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to function as a straw, as taught by Bergamini, to make it easier to remove the mixed contents of the container.

18. Regarding claim 11, the modified cap of Gibler teaches wherein the storage member is screw-coupled to an upper inner surface to descend when the outer cap ascends.

19. Regarding claim 12, the modified cap of Gibler teaches all the claimed limitations as shown above but fails to teach wherein the storage member has a pointed extreme end.

20. Bergamini teaches that it is known in the art to manufacture a cap assembly wherein the storage member has a pointed extreme end (Fig. 4).

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21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to have a pointed extreme edge, as taught by Bergamini, in order to improve its ability to break the seal.

22. Regarding claim 13, the modified cap of Gibler teaches wherein the storage member is coupled to a key groove (Gibler, 28) formed on an inner surface of the exhausting portion of the lid.

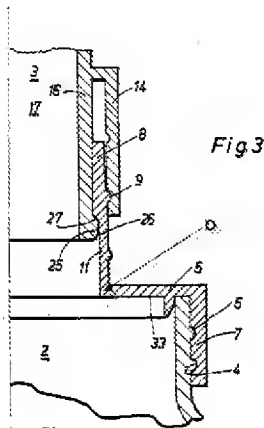
23. Regarding claim 14, the modified cap of Gibler teaches wherein the cutting plate has a cutting line (Bergamini, formation around the bottom of the plate) at its edge portion.

24. Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hildebrandt et al. (U.S. Patent No. 4,203,517) in view of Goncalves.

25. Regarding claim 1, Hildebrandt discloses a cap assembly that can be associated with a container storing a primary material (Fig. 1), the cap assembly comprising a lid (5) fixed on a top of the container and having an exhausting portion (8) projected upward; a cap main body (13) detachably coupled to the exhausting portion of the lid and having a storage tube (16) extending downward to define a storage chamber for storing a secondary material; and an inner cap body (29) detachably coupled to the storage tube. The exhausting portion tightly contacts an outer surface of the storage tube, further including an exhausting piece (D, Fig. 3 below labeled by examiner)

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extending radially inward into an exhausting space and including a bending portion for selectively separating the inner cap body.



26. Hildebrandt fails to teach wherein there is a plurality of exhausting pieces.
27. Goncalves teaches that it is known in the art to manufacture an exhausting assembly for a cap assembly that is made out of a plurality of exhausting portions (Fig. 2).
28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the exhausting piece of Hildebrandt with a plurality of openings so that it is a plurality of exhausting pieces, as taught by Goncalves, so that the contents of the container could be mixed better.
29. Regarding claim 3, the modified cap assembly of Hildebrandt teaches wherein the bending portion is projected inward (Hildebrandt, Fig. 2).
30. Regarding claim 4, the modified cap assembly of Hildebrandt teaches wherein a top surface of the container and a lower surface of the lid are provided with respective attaching surfaces (Hildebrandt, 4 and 6) attached to each other.

Response to Arguments

31. Applicant's arguments filed 11/3/2009 have been fully considered but they are not persuasive. Applicant argues that the exhausting pieces of Goncalves are not coupled to the lid. Dictionary.com defined couple as to link, join or connect. Since the inner cap (8) is directly connected to the lid and the exhausting pieces (12) are directly connected to the inner cap the exhausting pieces and lid are connected together.

32. Applicant's arguments with respect to the remaining claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781